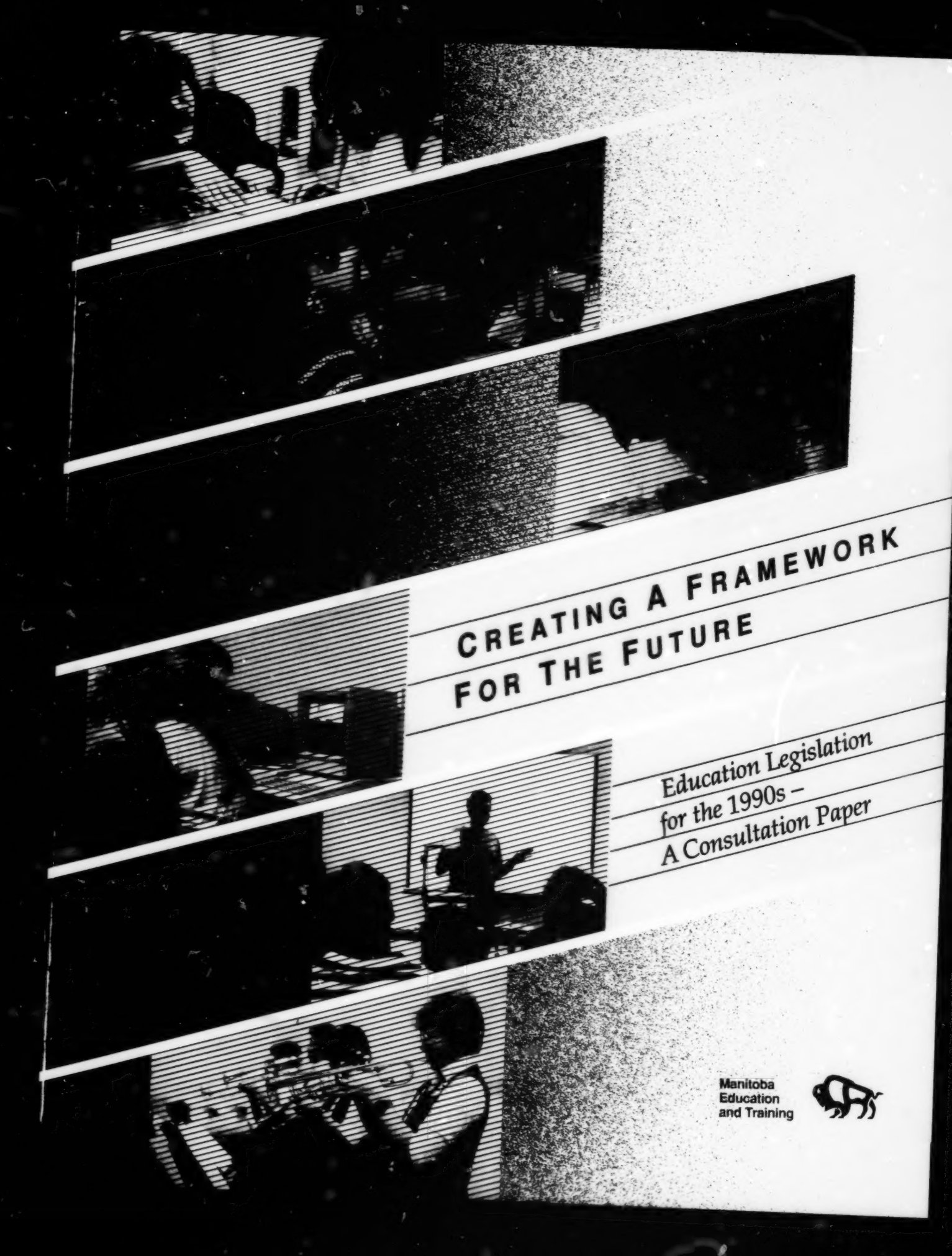

CREATING A FRAMEWORK FOR THE FUTURE

Education Legislation for the 1990s – A Consultation Paper

Manitoba
Education
and Training

CREATING A FRAMEWORK FOR THE FUTURE:

EDUCATION LEGISLATION FOR THE 1990s

A Consultation Paper

Pour un exemplaire français du présent rapport adressez-vouz à la Direction des communications, 1200, avenue Portage, Bureau 116, Winnipeg, R3G OT5, 945-6185 ou 1-800-282-8069.

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April 1991

MESSAGE FROM THE MINISTER

Over the last decade, Manitoba has experienced fundamental changes in its economic, social and cultural structure, as well as changes in a number of significant demographic characteristics. These changes have resulted in a society which is highly competitive, knowledge-intensive, global, and technologically-based. To survive and to flourish in today's society, Manitobans in all parts of the province require a solid foundation in basic skills, a broad understanding of how our society functions within the international context, scientific and technological literacy, and opportunities to train and retrain in specialized areas.

Manitobans value a high quality education and training system that prepares individuals to contribute meaningfully to the economic, social and cultural life of rural, northern and urban communities.

The mission of Manitoba Education and Training is to ensure that all Manitobans have equitable opportunities to obtain high quality education and training programs to meet their lifelong learning needs.

It is critical that the Kindergarten through Grade 12 education system be relevant and responsive to the needs of our ever-changing society. This is coupled with the premise that the thirteen years of formal school that Manitobans provide for their children coincide with their formative years, the years during which they will develop an overall understanding of themselves and their society. The knowledge, skills, values, and attitudes they develop will form the basis for the decisions and actions they will take in our changing world.

Education legislation must be in harmony with and responsive to the needs of our challenging and changing society. Education legislation defines the Province's authority and responsibility to develop and support educational programs and services. It also defines the rights and responsibilities of students, parents, educators and administrators. Education legislation directly influences the educational environment and climate for learning.

Education law making is one of the most important activities in which citizens can participate. It provides an opportunity for people to reflect on where we want to go as a society. It is also a time to closely examine the values and traditions we cherish and wish to preserve, and to develop an educational climate that is conducive to learning.

The principal laws governing Kindergarten through Grade 12 education in Manitoba are contained in The Public Schools Act and The Education Administration Act. The last extensive revision of this legislation took place in 1980. In the decade since then, there have been major social, economic and demographic changes in our society and society's expectations of schools have also changed. These changes have prompted an examination of the relevancy of our existing legislation.

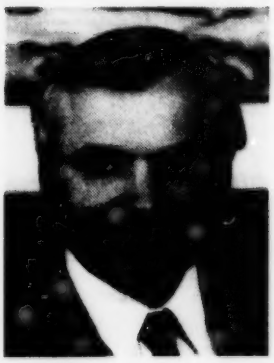
This paper entitled, "Creating a Framework for the Future: Education Legislation for the 1990s," outlines a number of major issues which require careful examination. I strongly urge individuals, groups and organizations to become involved in a full review and discussion of these issues. I would also welcome the addition of issues that you feel are important to this process.

This consultation paper does not include reference to two major topics: Minority French Language Education (as guaranteed by our constitution), and Public Schools Financing. These topics are being addressed in separate reviews. It is anticipated that new legislation will be considered as a result of these reviews.

Although related, the issues raised in this paper are treated separately for the purpose of this review. When responding to each of the issues and their related questions, please refer to the specific number (i.e. 1 to 25). Details concerning your submission are provided in the last section of the paper.

For further information or clarification on this review, please contact the Acting Executive Director, Planning, Research and Policy Coordination Branch at 945-6171 in Winnipeg, or 1-800-282-8069 for rural residents.

I look forward to your response to this consultation paper on education legislation for the 1990s.



Sincerely yours,

Len Derkach
Minister
Education and Training

INTRODUCTION

Manitoba's education system, from Kindergarten through Grade 12, builds the foundation for living and lifelong learning. It is based on a partnership of parents, students, educators, administrators and community members. The quality of our education system depends upon the strength of this partnership. It is important to ensure that the education legislation provides a solid framework to achieve the full and effective participation of all the partners in the learning process.

The school system has a profound effect on the lives of all Manitobans. How well this system responds to the needs of society and to Manitoba's diversity in culture, language, religion, geography and economics greatly determines the quality of life in our communities and our ability to compete in a global economy.

In Manitoba, our public education system serves approximately 200,000 students between the ages of five and 21. In addition, between 1,500 and 2,000 adults enrol annually in programs offered by school divisions. Approximately 10,000 students in Manitoba attend private schools and another 300 receive instruction at home. Operating outside of provincial jurisdiction are federally-operated schools and band-controlled schools on Indian reserves. More than 12,000 educators are employed in Manitoba schools.

This consultation paper is designed to initiate a comprehensive review of Manitoba's education legislation. It is intended to involve a broad cross-section of Manitobans in developing a new legislative framework for Manitoba. It is important that this framework is compatible with our underlying values, our historic experience and our educational goals.

This paper describes several major issues requiring examination in light of the changes that have occurred in our society. The list of issues is not intended to be all inclusive. The paper is intended to promote discussion and debate on fundamental questions in education with a view to soliciting recommendations from the education community and the public at large, which will contribute to the development of an enhanced education system. In responding to the issues, it is suggested that reference be made to The Public Schools Act and The Education Administration Act.

Within the educational partnership, there are competing interests. Provided that all partners in the learning process share a commitment to underlying principles, and there is meaningful involvement of all partners in decision making, these competing interests ensure that an appropriate balance of powers, rights and responsibilities is established and maintained.

In Manitoba's education system, there is a need to balance the leadership provided by the Minister of Education and Training with that of autonomous, local and private school boards, a need to balance public and private interests, and a need to balance the desire of the individual for freedom of expression, for confidentiality which may conflict with the legitimate interests of the community. These interests are expressed in the promotion of such values as respect for others as individuals and as members of different social and cultural groupings, the protection of economic interests and the preservation of the integrity and security of our institutions.

As a base for collaborative decision making, and a guide towards the development of a new legislative framework for education in Manitoba, a set of seven underlying principles are proposed. These are:

1. Equity - ensuring fairness and providing the best possible learning opportunities for all Manitobans, regardless of background or geographic location.

2. Openness - being receptive to ways of thinking and doing things that result in ongoing renewal, and involving a wide cross-section of people in decision making.

3. Responsiveness - meeting the education and training needs of individuals by taking into consideration personal background and circumstances, as well as geographic location.

4. Excellence - providing a climate for education and training that fosters dedication, determination, creativity, initiative, and high achievement.

5. Choice - providing alternatives to meet diverse learning needs and interests.

6. Relevance - providing education and training that is current and meaningful to students.

7. Integration - connecting components within and between education and training, and between education and training and social and economic systems, in order to increase the effectiveness and efficiency of programs and services.

In developing a new legislative framework in Manitoba, it is important to ensure that there is agreement among all partners concerning educational principles. An important question we need to ask is: "Do these seven principles adequately address the needs of Manitoba's education system?" **In responding to the issues raised in this paper, we would also request comments on these basic educational principles and how they apply to Manitoba's education legislation for the 1990s.**

BACKGROUND

The Public Schools Act and The Education Administration Act are the main statutes governing Manitoba's Kindergarten through Grade 12 education system. The subjects dealt with by this legislation include the powers and responsibilities of the Minister of Education and Training; the establishment, powers, duties and operation of school boards and school divisions; school attendance; the transportation of pupils; languages of instruction; religious instruction; religious exercises; collective agreements; employment and employment benefits of teachers; financial provision for education including taxation; and private schools. In addition to provincial education legislation, schools are subject to other provincial and federal legislation including The Privacy Act, The Human Rights Act, The Young Offenders' Act and The Copyright Act.

Although education is exclusively under provincial jurisdiction, some aspects of Canadian schooling, including minority language and religious rights, are constitutionally guaranteed. The right to education in Canada involves more than the right to access educational programs. It includes the right of a child to receive proper instruction.

The Canadian Charter of Rights and Freedoms provides protection of fundamental freedoms; democratic rights; the right to live and to seek employment anywhere in Canada; legal rights; official languages of Canada; minority language education rights; Canada's multicultural heritage and aboriginal people's rights. The Charter applies to governments as well as to individuals. Children are legal persons for the purposes of the law. As such, they are entitled to the full benefit and protection of the law.

There remains some uncertainty, however, as to how the Charter applies in educational contexts. The legal status of students in the school context is somewhat unclear. For example, students can be searched by school officials without prior authorization, where there is reason to believe that other students are exposed to risk. However, the general power of the principal and the school board to maintain order and discipline in the school can be restricted by the Charter and provincial human rights legislation.

Particularly since passage of the Charter, the courts have been intervening with increasing frequency in what was traditionally the school's exclusive jurisdiction. This intervention by the courts in the education system can be expected to continue.

While the courts have an important role to play, an environment which is conducive to learning is not one in which decisions are constantly challenged. Rather an environment that is conducive to learning is one that promotes fairness, protects the worth and dignity of all concerned, fosters high staff morale, and in other ways, attends to the quality of the relationships and interactions within the education system.

The last extensive revision of The Public Schools Act and The Education Administration Act took place in 1980. Since then, many new demands have been placed on our education system. These include immigrants, a rapidly changing workplace, new technologies in education, the demands of special interest groups, increasingly complex social problems, increasing recourse to the courts to resolve disputes, and new expectations stemming from the Charter. Major changes to Manitoba's education statutes are required to enable the Minister of Education and Training to respond appropriately to existing and emerging needs.

THE ISSUES

1. Goals of Education

The overall responsibility of the provincial government for education and training in Manitoba is reflected in the mission statement of the Department:

> Manitoba Education and Training is committed to ensuring that all Manitobans have equal opportunities to obtain high quality education and training programs to meet their lifelong learning needs.

The educational system is a partnership involving parents, students, educators, business, industry, and community members. In such a large and complex system having many components, needs and interests, a statement of system-wide goals provides overall direction as to how the organization will fulfil its mission.

Goals are the broad statements of direction or purpose. They express the ends toward which all effort is directed. Goal statements can also be used to identify the most desirable means of achieving these results. In recent years, many jurisdictions have articulated goals of education as a preamble to their education legislation. Manitoba's current education legislation does not include a statement of purpose.

What should be the goals or purpose of elementary and secondary education? What should be the scope and focus of public education? Should schools include "pre-school" programs? Should schools go beyond Kindergarten through Grade 12? What outcomes or results should Manitoba schools, in partnership with families and communities, be expected to achieve? Should schools, as part of the educational partnership, provide a broadly based education that is designed to cultivate the knowledge, skills, self-esteem, attitudes, values and personal qualities that will enable students to lead productive, satisfying lives in a world of rapid change? Or should the role of schools be more narrowly focused? If so, what should be the main focus?

2. Powers of the Minister of Education and Training

Education is a provincial responsibility. The Minister of Education and Training has overall responsibility for education and training in Manitoba, whether it is provided by public or private schools, public or private agencies, parents at home, community organizations, private businesses, employers, or by any other group or institution.

Current legislation authorizes the Minister to establish provincial education policies for public schools; to develop and revise core curricula at each level of the Kindergarten through Grade 12 education system; to establish program standards for public schools as well as private schools that receive provincial funds; to approve programs in public schools and publicly funded private schools; to evaluate programs in publicly funded schools, and to fund authorized activities in education. There are no broad powers in the current legislation which enables the Minister to respond to the evolving needs of education in Manitoba.

> ***What broad powers should the Minister of Education and Training be given to ensure that all Manitobans have equal opportunities to obtain high quality education and training programs to meet their lifelong learning needs? Should the Minister's existing powers be extended to all institutions and agents which receive provincial education funds or which grant high school diplomas as well as to other providers of education and training?***

Manitoba's current education legislation provides the Minister with many specific powers. However, the Minister does not have the legislative authority to establish programs for aboriginal people; to require education authorities to release certain kinds of information; to establish a variety of mechanisms to investigate complaints; to resolve disputes; or to alter school division boundaries (with the exception of Section 14 of The Public Schools Act which allows the Minister to add or withdraw territory from The Frontier School Division No. 48).

3. Powers and Responsibilities of School Boards

In order to deliver effective and efficient educational programs and services, school boards require sufficient powers, clearly defined in relation to provincial powers, to enable boards to manage the human and physical resources required for program delivery. These include powers to protect these resources from physical, financial or legal risk.

Under current legislation, the powers of school boards include the authority to provide for any course of study approved by the Minister, the transportation of students, nursery or kindergarten classes or both, evening schools and part-time day schools, summer schools, and lunches to students with or without charge. Among the duties of school boards are the requirement to provide or to make provision for education in Grades 1 through 12, including adequate school accommodation for all residents who have a right to attend school; to prescribe the duties of teachers and of other personnel; and to determine the number, kind, grades, and description of schools to be established and maintained.

What broad powers should school boards be given? Should school boards be given the authority to develop curriculum, provided educational standards are maintained?

4. Program and Financial Accountability

In order to ensure that educational programs and services respond to the needs of our society and that they are offered in an effective and efficient manner, the legislative relationship between the Minister and school boards with respect to program development, approval, delivery and evaluation must be clearly defined. Existing legislation lacks clarity as to the roles of the Department of Education and Training, school boards, parents and other members of the community in terms of curriculum development. The responsibility of school boards to implement approved provincial curricula for core requirements is also unclear.

Under current legislation, the Minister is responsible for the supervision, control and direction of all public schools. The Minister has the authority to approve courses of study and textbooks to be used in public schools, to withhold credits for courses of study which have not been approved, to evaluate education in public and private schools, and to fund approved programs and services offered by public schools and eligible private schools.

School boards are required to provide for education in Grades 1 through 12. School boards may establish and provide for any course of study approved by the Minister.

What legislative authority should the Minister have in order to ensure that educational programs and services in Manitoba schools respond to the needs of our society, and that they are delivered in an effective and efficient manner? Should the Minister have the authority to prevent certain materials, either unauthorized or of questionable content, from being used. What criteria should be used to assess and fund educational programs and services?

What powers should school boards have in order to deliver educational programs in an effective and efficient manner? What powers do they require in order to ensure that educational programs and services respond to the needs of local communities?

5. Consultation with the Public

Although current legislation provides mechanisms to achieve public participation in education decision making, including the various statutory and non-statutory boards and commissions (i.e. the Minister's Advisory Board, the Board of Reference, the Board of Teacher Education and Certification, the Public Schools Finance Board), no broad power to establish such mechanisms is contained in this legislation.

Should legislation emphasize the authority of, and confer broad power upon, the Minister of Education and Training to establish mechanisms to achieve broad public participation in education decision making? Should broad public consultation be required for certain issues? If so, which issues?

6. School Advisory Committees

School advisory committees are one mechanism that some education jurisdictions use to more fully involve the members of the school, parents and the community in an educational partnership. No provision is made in existing legislation for the establishment of school advisory committees.

Should school boards be required to establish and maintain advisory committees for every school within their jurisdiction? Or should the establishment of school advisory committees remain voluntary? If mandatory, what should be their role? Who should serve on school advisory committees? How should members be selected? What authority should they have? What alternatives or additional means should be considered to promote an educational partnership?

7. Alteration of School Boundaries

The Public Schools Act authorizes the Minister to create a school division or district in any area of the province not presently served by a division or district. Any request or proposal for alteration of an existing district or division must be referred to the Board of Reference which then has complete and final authority to determine the matter.

Should the Board of Reference retain the authority to alter an existing district or division? Or should the Minister be given final authority? Or should the final decision concerning boundary alterations be made by the provincial government?

Under existing legislation, a petition to have land transferred to another school division will be considered by the Board of Reference, provided that at least ten residents have signed the petition. There is no requirement that the land in question belong to them.

Should this procedure be retained? If not, what changes should be made?

8. Right to a Basic Education Program

The Public Schools Act requires school boards to provide or to make provision for education in Grades 1 through 12 for all residents who have the right to attend school. Manitoba residents have the right to attend school from the age of six until they reach 21. School attendance is compulsory between the ages of seven and 16.

How should education legislation define the right of each student to receive proper or adequate instruction?

Should Manitoba's education legislation more clearly define the basic education program to which individuals are entitled? What basic knowledge, attitudes and skills should students be encouraged to develop? What values and personal qualities should students be encouraged to develop? What program options should students be entitled to take?

Having completed a program of studies and graduated with a high school diploma, should an individual be permitted to return to school to obtain a diploma in another area of study? What, if any, restrictions should be placed on this right?

Should adults beyond 21 be granted the right to attend school to upgrade their basic skills or to gain a diploma in a particular area? If not, why not? If so, what, if any, restrictions should be placed on this right?

9. Learners with Special Needs

In order to benefit from education, some students with special needs require modification of school practices, facilities or programs. The Public Schools Act makes no specific provision for students with special learning needs.

Should changes be made to the legislation to make provision for the education of students with special learning needs? If so, should it specify an education program and placement process that affords an appropriate education in the most appropriate learning environment? How should "special learning needs" be defined? Should a separate appeal mechanism to resolve disputes involving students with special learning needs be legislated? Who should be allowed to appeal? Parents? Students? Advocates?

10. Choice of Schools

The Public Schools Act gives school boards sole authority to determine the schools the students under their jurisdiction will attend. If a certain program is not offered in a student's home division, the school division arranges for the student to attend school in another division which offers that program.

In recent years, there have been suggestions that changing needs in our society may require greater freedom of choice in the schools students attend. Families in which the husband and wife are working now comprise the majority of husband-wife families in Canada. The number of single parent families is also increasing. For many families, the workplace, day care centres and schools are such that their daily lives are inconvenienced considerably. The closeness of a school in a neighbouring division and program preferences also may require an examination of this matter.

Should the decision as to which school a student will attend remain essentially with the school board? If not, under which circumstances should parents and their children be allowed to choose a school? Should any restrictions be placed on their right to choose in these circumstances?

11. Private Schools

Private schools which consent to government regulation by meeting certain criteria are eligible to receive public funds. Students attending these schools receive diplomas which are recognized by the Department of Education and Training as well as by post-secondary institutions and employers. In order to receive public funds, private schools must be certified by the government, teach the Manitoba curriculum, employ certified teachers, and submit an annual audited financial statement to government as well as a record of final academic standing achieved by each student in Grades 10, 11 and 12.

> ***Do the existing criteria allow for sufficient accountability regarding the use of public funds? Should private schools which receive public funds be required to meet any other criteria? If so, what should these criteria be?***

There are also private schools in Manitoba which do not receive public funds. The diplomas which these non-funded private schools grant to students are not formally recognized by the Department of Education and Training, nor are they recognized by post-secondary institutions.

> ***Should private schools which receive no provincial funding be required to register with the government? Should they be required to meet accountability requirements and academic standards? Should they be required to meet any other criteria? If so, what should these criteria be? On what basis should the government recognize the academic standing achieved by students attending private schools that are not funded by the government?***

12. Home Schooling

In recent years, the concept of home schooling has received increased attention in Manitoba. Advocates of home schooling choose this alternate approach to schooling for various reasons. These include the desires to enhance certain areas of education for their children, or to avoid the teaching of specific content to their children.

Currently, there is no specific legislation for home schooling in Manitoba. Parents of school-age children must ensure that their children attend school, unless written permission to excuse the child from school is granted by the Minister.

What should be the roles and responsibilities of the Department and of school boards with respect to home schooling? Should the Department be responsible for approving home schooling requests or should school boards have this responsibility? Should home schooling be administered by the Department or by the school division in which the student resides? What resources, if any, should the school board provide? What assistance should be provided to parents in home schooling?

What standards should be met in home schooling? How should these standards be ensured? How should students in home schooling be accredited?

13. School Attendance

In all public and private schools and in home schooling, student attendance in Manitoba is compulsory for children and youth between the ages of seven and 16. Teachers and principals are required to report absences to school attendance officers. Parents or guardians who fail to comply with the attendance provisions of The Public Schools Act can be brought before a provincial judge and prosecuted on summary conviction.

In many cases, truancy can be dealt with more effectively through alternatives to the court system, a number of education jurisdictions have legislated alternative approaches. These include interagency planning and sharing of resources, school board hearings, fact finding and mediation, and an attendance board that offers the help of a team of specialists. Some jurisdictions that continue to refer truancy cases to court have established a clearly defined process that must be followed prior to referral to court.

How should school attendance in Manitoba be enforced? Should alternatives to the court system as a way of dealing with truancy be legislated in Manitoba? If so, what approaches should be considered?

14. Individual Rights and Responsibilities

Under current legislation, students in Manitoba have the right to attend school. A recent amendment to The Public Schools Act provides students (18 or older) the right of access to information contained in their own school file or record. There are no other student rights specified in the current legislation. In addition, there are no responsibilities on the part of students other than school attendance which are specified.

What individual rights should students be granted? Should legislation specify a student's right of equitable access to a basic education program that is recognized and approved by the Department of Education and Training? The right to instruction which is presented in a manner that is consistent with their individual learning needs and abilities? The right to the freedom to pursue a basic education supported by the rights and freedoms enjoyed by all citizens of a free and democratic society? The right of access to his or her own school record and the right to challenge the content of that record? The right to the assurance that disputes which may arise can be resolved through a clearly identified and consistent procedure? The right to be present or to be represented at all hearings affecting his or her rights?

What responsibilities on the part of students should be specified in legislation?

14. **(Continued)**

In Manitoba, parents have the right to receive reports concerning the progress of their children, the right to be notified if their children bring offensive or dangerous weapons to school, and the right to inspect minutes of school board meetings and audited financial statements. A recent amendment to The Public Schools Act provides parents, with the written consent of their children if 18 or older, the right of access to information contained in any school file or record respecting their child. No responsibilities on the part of parents other than the attendance of their children are specified in existing legislation.

What individual rights should parents have with respect to the education system? Should legislation specify a parent's right to general information concerning the programs available for students? The right to particular information concerning their child, their child's progress, and any matters affecting their child's participation in the education system? The right to meaningful communication of any steps being taken by school authorities which may affect the rights or freedoms of their child? The right to the assurance of a known, consistent procedure for the final resolution of disputes?

What responsibilities on the part of parents should be specified in legislation?

15. Rights and Obligations of Teachers

The Public Schools Act grants teachers the right to be a member of the Manitoba Teachers' Society and the right to a hearing by the school board before dismissal. Legislation specifies the responsibility of teachers to teach diligently and faithfully, to keep attendance records, to maintain order and discipline in school, to provide information to the principal concerning communicable diseases, to seize offensive or dangerous weapons, to report to parents on the progress of their children, and to admit student teachers to their classroom.

What individual rights should teachers be granted? Should teachers have the right to participate in the planning of educational policies and programs at the level of the local school? The right to be involved in determining the criteria by which their professional performance is evaluated? The right to have their professional performance fairly and reasonably evaluated? Should teachers have the right to determine the professional methods or techniques they employ in teaching?

What obligations on the part of teachers should be specified in legislation?

16. Collective Bargaining

The employment and working conditions of teachers are negotiated through a collective bargaining process that is subject to provisions contained in education legislation rather than the Manitoba Labour Relations Act. Teachers can negotiate such items as salaries, sick leave and educational leave.

Should education legislation incorporate provisions of the Manitoba Labour Relations Act with respect to due process for disciplinary measures, access to information, access to the workplace, consultation during collective agreement, obligation to act fairly, and substitution of penalty?

Should legislation specifically exclude the following from the collective bargaining process:

- ***a) the selection, appointment, assignment, evaluation or termination of teachers?***
- ***b) duties the teacher is to perform, subject to the Act and the regulations?***
- ***c) the number, kind, grades and description of schools?***
- ***d) courses of study and programs of study?***
- ***e) class size, pupil-teacher ratios, preparation time or number of classes?***
- ***f) hours and days of the school year?***

Should strikes and lockouts continue to be prohibited?

Should binding arbitration for the settlement of disputes continue to apply to collective bargaining between teachers and trustees?

17. Corporal Punishment

Teachers and other education authorities are permitted to use reasonable force in order to maintain order and discipline in schools.

Should education legislation specifically prohibit corporal punishment? Should alternative forms of discipline be legislated?

18. Public Access to Information

Under existing legislation, the Minister has the power to instruct school boards to keep certain records, but not the power to instruct school boards to release certain information to the public. School boards are required to release annual financial reports, audited financial statements for the previous five years, and final budgets. School boards are not required to release such information as monthly financial statements, preliminary budgets, financial projections, or accounts payable records.

What information concerning the education system should be available to the public? Should the provisions of Manitoba's Freedom of Information Act be extended to school boards which receive provincial funds?

19. Investigation of Complaints

Under current legislation, the Minister does not have powers to investigate complaints other than to appoint a commission of inquiry. The investigation of a complaint by such a commission is a highly formalized process. No authority is provided, for example, to appoint a person to mediate or conciliate in matters other than labour relations.

What kinds of complaints should be addressed by the Minister? Should authority be given to the Minister to use a variety of mechanisms or procedures to investigate complaints?

20. Final Resolution of Disputes

Serious disputes having the potential to involve legal action occur in the school system. There are also many disputes which are unlikely to result in legal action but need to be resolved.

Our courts of law are available for matters suitable to their jurisdiction, for example, Charter rights and contractual obligations. Some matters are best suited to a non-judicial and less adversarial approach. To ensure fairness, certain procedural requirements governing the process can be established. Optional procedures and mechanisms frequently established in legislation for this purpose include mediators, investigators, arbitrators, adjudicators, special commissions of inquiry, or boards with similar powers. In mediation, a third party participates in discussion to assist parties in reaching agreement. In arbitration, a third party or a board, involving an appointee for each side and an agreed upon chairperson, hears the parties to make a final determination which is binding on both parties.

What final dispute resolution or appeal mechanisms should education legislation provide to assist parents, students, educators and school boards to resolve disputes with respect to:

a) access to and disclosure of information?
b) the expulsion of a student?
c) the amount and payment of fees and costs?
d) residency?
e) placement?
f) accreditation?
g) home schooling arrangements?
h) the provision and control of programs to satisfy the needs of religious, cultural and language minorities?
i) curriculum textbooks and materials?

For each of the above subject areas for appeal, who should be allowed to appeal? Parents? Students who have reached a certain age? Advocates? Are there any other subject areas for appeal that should be provided for in legislation?

21. French Immersion Education

The purpose of French Immersion education is to facilitate fluency in Canada's two official languages. Although English and French are the languages of instruction in Manitoba's public schools, students throughout the province do not have equitable access to French Immersion education. The Public Schools Act guarantees instruction in English or French where sufficient numbers warrant such provision.

Should education legislation guarantee access to elementary and secondary education that facilitates fluency in Canada's two official languages, where sufficient numbers warrant such provision?

What criteria should be used to determine whether French Immersion education should be offered? What process could be used to arrive at a decision?

22. Programs for Aboriginal People

The distinct right of aboriginal people to education programs and services has yet to be defined by the courts. The federal government, and in some cases, band councils, have responsibility for the education of aboriginal people who live on reserves. The province is responsible for education programs utilized by aboriginal people who have established principal residences off reserves or who are non-status Indians. Manitoba's current legislation makes no provision for education programs for aboriginal people.

Should the Minister be authorized to establish and fund particular education programs for aboriginal people who establish principal residences off reserves and where sufficient numbers warrant such provision?

What criteria should be used to determine whether such programs should be offered? What process could be used to arrive at a decision?

23. Heritage Language Education

Current policy and legislation in Manitoba enables school boards to provide heritage language courses as well as heritage bilingual programs for up to 50 per cent of regular school hours, as determined by the Minister.

Should education lelgislation maintain specific provisions for the Minister to establish and fund heritage language programs and courses?

What criteria should be used to determine whether such programs should be offered? What process should be used to arrive at a decision?

24. Religious Exercises

There is increasing pressure to make education more responsive to the cultural diversity that characterizes our province and to prepare all students to live in a multicultural society. In a multicultural society, there are diverse religious beliefs and the Charter recognizes the right of individuals to express their religious beliefs.

Legislation in Manitoba requires public schools to be non-sectarian. Religious exercises shall be allowed according to regulations made by the Minister's Advisory Board. Currently, religious exercises in public schools consist of a Scripture reading, a prayer, and whenever possible, a hymn, all of which may be chosen from a recommended list. Participation in religious exercises is voluntary. A school board may direct that religious exercises not be held in a school.

Should religious exercises be mandatory in public schools or should school boards be given discretionary authority to permit such exercises? Should all students be required to participate in these exercises? Who should determine the content of religious exerices? What should be the criteria and process for deciding on whether religious exercises should be conducted?

25. Religious Instruction

Our society is characterized by diverse religious beliefs. The Charter recognizes the individual's right to express his or her religious beliefs. Religion can be an important dimension of one's identity and advocates of religious instruction argue that the public school should assist students to develop and retain an awareness of their own culture and religion.

Current legislation authorizes school boards in Manitoba to pass by-laws to conduct religious instruction in any school. Such instruction must be voluntary, must not exceed two and one-half hours per week and must be conducted by a cleric, priest, rabbi or other spiritual leader or by a representative of parents recognized by the school board as constituting a religious group. School boards are required to provide religious instruction if a sufficient number of parents formally make such a request.

Should school boards be authorized to provide religious instruction in public schools? Should religious instruction be made accessible to any student who wishes to receive such instruction?

What criteria should be used to determine whether religious instruction should be offered? What process could be used to arrive at a decision?

RESPONDING TO THE ISSUES

Recommendations concerning legislative changes in Manitoba's Kindergarten through Grade 12 education system are invited from individuals, groups and organizations through oral presentation and/or written submission.

During 1991, public hearings will be held in communities throughout the province. A panel appointed by the Minister, will receive oral presentations at these community meetings. Presentations will be taped and analyzed by the panel.

Information concerning the date, time and location of the hearings will be published in local newspapers.

A schedule of the hearings can be obtained from the Communications Branch, Manitoba Education and Training, 116-1200 Portage Avenue, Winnipeg, Manitoba, R3G OT5, 945-6185 or toll free 1-800-282-8069.

Written submissions may be forwarded until the closing date, directly to:

Planning, Research and Policy Co-ordination Branch
Manitoba Education and Training
221-1200 Portage Avenue
Winnipeg, Manitoba
R3G 0T5

Attention: Acting Executive Director

The written submissions will be analyzed by the panel, and, along with an analysis of the feedback obtained through the public hearings, will provide the basis for a report to be prepared by the panel for the Minister of Education and Training.